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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of ) WT DOCKET NO. 94-147  
 )  
JAMES A. KAY, JR. )  
 )  
Licensee of one hundred sixty four Part 90 )  
Licenses in the Los Angeles, California, Area )

DOCKET FILE COPY ORIGINAL

To: Administrative Law Judge  
Richard L. Sippel

WIRELESS TELECOMMUNICATIONS BUREAU'S  
STATUS REPORT

1. By Order, FCC 94M-653 (released December 22, 1994), the Presiding Judge directed counsel in the above-captioned proceeding to confer by January 20, 1995, on certain procedural matters and to submit status reports on the conference by January 24, 1995. The Wireless Telecommunications Bureau, by its counsel, hereby submits its status report.

2. On January 20, 1995, Bureau counsel, Gary P. Schonman, Esq., and counsel for James A. Kay, Jr., Dennis C. Brown, Esq., conferred by telephone on the matters specified in the Order. Specifically, counsel discussed the subjects of discovery, witnesses, and stipulations of facts.

3. The Bureau intends to conduct discovery on matters which are relevant to the designated issues. It intends to employ all of the discovery tools authorized by the Presiding

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Judge, including requesting answers to interrogatories, seeking admissions of facts and genuiness of documents, and taking the deposition of individuals, including Kay. At this early stage in the proceeding, the Bureau has not yet identified the persons it intends to call for examination at the hearing. The Bureau is also willing to consider the possibility of stipulating to facts.<sup>1</sup>

5. The reference Order also directed Kay to submit to Bureau counsel in writing by January 20, 1995, certain information about the evidence he intends to introduce and witnesses he intends to call. Kay timely submitted to Bureau counsel the letter which is appended hereto as Attachment 2.

Respectfully submitted,  
Regina M Keeney  
Chief, Wireless Telecommunications Bureau

*Robert A. Zauner for*

W. Riley Hollingsworth  
Deputy Associate Bureau Chief

*Gary P. Schonman*

Gary P. Schonman  
Attorney

Federal Communications Commission  
2025 M Street, N.W., Suite 7212  
Washington, D.C. 20554  
(202) 632-6402

January 24, 1995

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<sup>1</sup> By letter, dated January 20, 1995, Kay proposed to stipulate that the Bureau has not filed a notice of appearance in this proceeding. See Attachment 1.

**ATTACHMENT 1**

**BROWN AND SCHWANINGER**

**LAWYERS**

**1835 K STREET, N.W.**

**SUITE 650**

**WASHINGTON, D.C. 20006**

**DENNIS C. BROWN**

**ROBERT H. SCHWANINGER, JR.**

**KATHLEEN A. KAERCHER†**

**† NOT ADMITTED IN D.C.**

**(202) 223-8837**

**GETTYSBURG OFFICE**

**1270 FAIRFIELD ROAD, SUITE 16**

**GETTYSBURG, PENNSYLVANIA 17325**

**January 20, 1994**

**Gary P. Schonman, Attorney  
Federal Communications Commission  
Hearing Branch  
Mass Media Bureau  
Suite 7212  
2025 M Street, N.W.  
Washington, D.C. 20554**

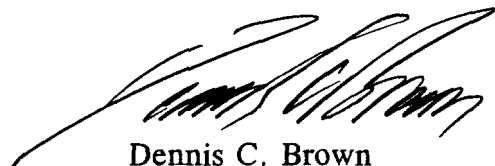
**Re: James A. Kay, Jr.  
PR Docket No. 94-147  
WT Docket No. 94-147**

**Dear Mr. Schonman:**

We represent the interests of James A. Kay, Jr. (Kay) before the Federal Communications Commission. In our telephone conference today, we had discussed the possibility of entering into stipulations of fact. If the Bureau would be willing to do so, Mr. Kay would be willing to stipulate that, to date, no notice of appearance has been filed by the Bureau. Please let me know if the Bureau would be willing to so stipulate, and if it would, I shall prepare the necessary document.

Also, in our telephone conference, you had informed me the W. Riley Hollingsworth had also been named to serve as Bureau counsel. At your convenience, could you send me a letter confirming that you and Mr. Hollingsworth are serving as Bureau counsel.

Very truly yours,



Dennis C. Brown

**ATTACHMENT 2**

**BROWN AND SCHWANINGER**

**LAWYERS**  
1835 K STREET, N.W.  
SUITE 650  
WASHINGTON, D.C. 20006

**DENNIS C. BROWN**  
**ROBERT H. SCHWANINGER, JR.**  
**KATHLEEN A. KAERCHER†**  
† NOT ADMITTED IN D.C.

**(202) 223-8837**

**GETTYSBURG OFFICE**  
1270 FAIRFIELD ROAD, SUITE 16  
GETTYSBURG, PENNSYLVANIA 17325

January 20, 1994

Gary P. Schonman, Attorney  
Federal Communications Commission  
Hearing Branch  
Mass Media Bureau  
Suite 7212  
2025 M Street, N.W.  
Washington, D.C. 20554

W. Riley Hollingsworth  
Deputy Associate Bureau Chief  
Office of Operations  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, Pennsylvania 17325

Re: James A. Kay, Jr.  
PR Docket No. 94-147  
WT Docket No. 94-147

Dear Messrs. Schonman and Hollingsworth:

We represent the interests of James A. Kay, Jr. (Kay) before the Federal Communications Commission. In his Order released on December 22, 1994, Administrative Law Judge Richard L. Sippel ordered that the parties confer by January 20, 1995. The judge ordered that, at that time, Kay disclose, in writing, to Bureau counsel "a summary of his anticipated evidence, including a list of witnesses who are expected to give testimony."

As you know, on behalf of Kay, on January 12, 1995, Kay filed with the Commission a Motion to Enlarge, Change or Delete Issues (Motion) in this matter. In that Motion, Kay requested enlargement of the designated issues to include issues not designated in the Order to Show Cause, Hearing Designation Order and Opportunity for Hearing for Forfeiture (HDO). Kay also requested that the Commission either change most of the issues

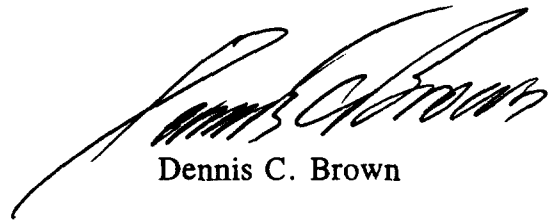
to state the facts and law alleged against him sufficient to give him notice of that against which he would be required to defend, or delete those issues. Only as to the issue designated at paragraph 10(b) of the HDO has the Commission supplied Kay with notice which is sufficient to inform him of the facts and law which are alleged against him. Therefore, until such time as the Commission acts on Kay's currently pending Motion, Kay is not able to provide you with a meaningful summary of anticipated evidence, except as to paragraph 10(b).

With respect to the issue designated at paragraph 10(b) of the HDO, Kay expects to present evidence concerning the type and nature of the equipment which was in operation in association with SMR-Conventional station WNWK982 on July 22, 1994. In support of his position with respect to paragraph 10(b), Kay may call Marc Sobel.

As to the other issues, without regard to the Commission's action on Kay's currently pending Motion, Kay expects to call as witnesses the following persons: James A. Kay, Jr.; Paul Northup; Ben Sarfehnia; Norm Kramer; Reed E. Hundt; W. Riley Hollingsworth; Terry L. Fishel; AnneMarie Wypijewski; and Sonya Colista.

When the Commission has had an opportunity to act on Kay's pending Motion, Kay will be pleased to supplement this information with respect to other issues designated by the HDO.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Dennis C. Brown", is written over a horizontal line.

Dennis C. Brown

**CERTIFICATE OF SERVICE**

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau  
certify that I have, on this 24th day of January 1995, sent by regular First Class United  
States mail, copies of the foregoing "Wireless Telecommunications Bureau's Status Report"  
to:

Dennis C. Brown, Esq.  
Brown & Schwaninger  
1835 K Street, N.W.  
Suite 650  
Washington, D.C. 20006

  
Michelle C. Mebane